

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

STEPHEN FARBER, et al.,

Plaintiffs,

v.

TED DOUKAS,

Defendant.

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NO.: 3:23-CV-214-KAC-JEM

ORDER ACCEPTING REPORT & RECOMMENDATION

Before the Court is United States Magistrate Judge Jill E. McCook’s “Report and Recommendation” (“Report”) entered on August 15, 2024 [Doc. 40]. On March 26, 2024, Defendant filed an Answer [Doc. 28] raising three (3) relevant affirmative defenses, among others [Doc. 28 at 16-17]. On April 16, Plaintiffs filed a motion to strike those three (3) relevant affirmative defenses under Federal Rule of Civil Procedure 12(f) [Doc. 30]. The Report recommends that the Court grant in part and deny in part Plaintiffs’ Motion, (1) striking Defendant’s first relevant affirmative defense and (2) declining to strike Defendant’s second and third relevant affirmative defenses but granting Defendant leave to amend his Answer to correct any Rule 9(b) deficiency in these defenses, consistent with Defendant’s request in his Response to the Motion [See Docs. 40 at 11; 32 at 9].

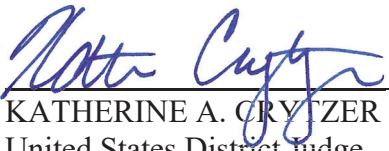
Under 28 U.S.C. § 636(b)(1), “[a] judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The Court need not engage in de novo review of undisputed portions of the Report. *Mira v. Marshall*, 806 F.2d 636, 637 (6th Cir. 1986). Neither Party objected to the Report, and the time to do so has passed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

The Court accepts the Report. Specifically, the Court:

- (1) **GRANTS** Plaintiffs' "Motion to Strike" [Doc. 30] **IN PART**;
- (2) **STRIKES** Defendant's first relevant affirmative defense; and
- (3) **GRANTS** Defendant **LEAVE TO AMEND** his Answer to attempt to allege fraud in his second and third relevant affirmative defenses with particularity under Rule 9(b).

Defendant **MUST** file any amended answer by **November 15, 2024**. If Defendant fails to timely file an amended answer, Plaintiffs may renew their motion to strike Defendant's second and third relevant affirmative defenses.

SO ORDERED.


KATHERINE A. CRYTZER
United States District Judge